IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRITS No. 3638 of 2004

SOHAN LAL MAREJA
V/S
STATE & ORS

Mr. KN JOSHI, for the petitioner.

Mr. VIJAY BISHNOI(CAVEATOR), for the respondent.

Date of Order : 2.9.2004

HON'BLE SHRI N.P. GUPTA, J.

ORDER

Reportable

Heard learned counsel for the parties.

This writ petition has been filed by the complainant, on whose complaint, the preliminary inquiry was got conducted, then a charge-sheet was served on the Chairman of the Municipality, the Chairman was placed under suspension, which suspension came to be challenged by way of writ petition before this Court unsuccessfully, and the appeal in the Division Bench was withdrawn on the assurance that the inquiry would be completed within two months. Thereafter, the inquiry proceeded ahead, and inquiry report was submitted, finding the Chairman guilty, but then, the State Government did not agree with the inquiry report, and directed a fresh inquiry to be conducted, and at the same time, also directed that since the Chairman is already under suspension for long time, it is not necessary to keep him any more under suspension, and, therefore, the suspension order has been recalled.

It is, this order, which is under challenge in the present writ petition by the complainant.

A preliminary objection has been raised on the side of the private respondent, to the effect, that the petitioner is only a complainant, and cannot be conceded any locus-standi to maintain the present writ petition, seeking to challenge the aforesaid order of the State

Government filed with the writ petition as Annexure-14.

Learned counsel for the petitioner, in reply, submitted that in the judgment of this Court in Ramchandra & Ors. Vs. State of Rajasthan & Ors., reported in 1993(1) WLC 693, this question was mooted, and the matter was referred to the Larger Bench for decision. However, it appears that subsequently, since the term of Municipality was over, the controversy was not decided. Learned counsel also cited some judgments, wherein the revocation of suspension was challenged by the complainant, and those writ petitions were entertained by this Court.

On the other hand, learned counsel for the private respondent contended that in any of these judgments, it has not been decided that the complainant has any locus-standi to file the writ petition, or to even contest the writ petition, where the suspension is challenged by the suspended elected public representative.

Learned counsel relied upon the Full Bench judgment of this Court in Mahadev Prasad Yadav Vs. State of Rajasthan & Ors., reported in 1990 (1) RLR 157, and in Ramji Lal Vs. State of Rajasthan & Ors., reported in 1985 RLR 644.

It was also pointed out that in the earlier writ petition, filed by the private respondent, challenging the suspension, being S.B. C.W. No.4832/02, the present petitioner moved an application for being impleaded as party, and this Court by a detailed order dated 12.12.2002 had dismissed that application, thus, when the present petitioner was not given any locus, even in the earlier writ petition, he cannot be allowed to be maintained the present writ petition.

I have considered the submissions, and find force in the preliminary objection.

In Mahadev Prasad's case, the Full Bench of this Court has held in para 11 as under:-

> “As no civil consequences are involved by revoking the suspension, hence there is no lis; there would be no question in such a case to grant hearing even to a complainant. He was only an informer and has no interest left in the matter to be entitled to get acquaintance with the further developments of the proceedings.”

Likewise, in Ramji Lal's case, disposing of the application of the complainant, for being impleaded as party, filed in writ petition no.665/85, it was held in para no.2 as under:

> "It may be that the applicants made the complaint on the basis of which the impugned order of suspension was passed. But in so far as the present proceedings are concerned, the necessary and proper party can only be the State Government which has passed the impugned order. The applicants can neither be regarded as necessary parties nor they could be regarded as proper parties."

It was argued by the learned counsel for the petitioner, that in both these cases, the litigation was, being the challenge to the suspension order by the suspended representative, and the complainant came to the Court for being impleaded as party, while in the present case, the petitioner has come to this Court by way of writ petition, seeking to challenge the order, Annexure-14, and therefore, this case stands on entirely different footing, and the petitioner has a right to maintain the writ petition, as the petitioner, apart from being a complainant, is a member of Municipality, and is very much interested in seeing the proper functioning of the Municipality, and to prevent it from being mismanaged, and/or any embezzlement, or irregularities being committed by the Chairman.

In my view, this argument also has no force, for the simple reason, that as a member, the petitioner may have any right, or feel concern about the proper functioning of the Municipality, but then, exercising those rights, the petitioner has already filed a complaint, whereupon, preliminary inquiry has already been held, and the charge-sheet was served on the Chairman. Thereafter, in view of the aforesaid judgments of this Court in Mahadev Prasad and Ramji Lal's cases, the role of the petitioner comes to an end, and he cannot be conceded any right to carry the litigation to its logical conclusion, as if he is one of the litigating parties to the lis.

In the aforesaid judgments in Mahadev Prasad and Ramji Lal's cases, when this Court did not allow the complainant even to be impleaded as party in the writ petition, to oppose the challenge to suspension, it would be too much to concede right to the complainant to file a writ petition, seeking to challenge the impugned order, like the

one being Annexure-14.

In that view of the matter, I uphold the preliminary objection, and dismiss the writ petition summarily.

However, it is directed that the fresh inquiry, as ordered vide Annexure-14, be completed most expeditiously.

(N P GUPTA),J.

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